

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

Form To Be Used By A Prisoner in Filing a Complaint
Under the Civil Rights Act, 42 U.S.C. § 1983

ROBERTA BYRD 1498941
Plaintiff's name and ID Number

* JURY trial Requested

Estelle H.S. 264 Fm 3478 Huntsville Tx 77342
Place of Confinement

CASE NO: 6:14cv986 MHS/KNM
(Clerk will assign the number)

v.

Sgt. HARRELL 2661 Fm 2054
Tennessee Colony TX 75884
Defendant's name and address

Lt Black 2661 Fm 2054
Tennessee Colony TX 75884
Defendants Name and Address

~~ROBERTA BYRD 1498941~~ ~~2661 Fm 2054~~ ~~Tennessee Colony TX 75884~~
Defendant's name and address

K. Ward Region 2 T.D.C.S Director's office (Discovery)
Defendant's name and address is Address can't get
(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the Clerk of the United States Court for the appropriate District of Texas in the Division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. The list labeled as "VENUE LIST" is posted in your unit law library. It is a list of Texas prison units indicating the appropriate District Court, the Division and an address of the Divisional Clerks.

FILING FEE AND IN FORMA PAUPERIS

1. In order for your complaint to be filed, it must be accompanied by the filing fee of **\$350.00**.
2. If you do not have the necessary funds to pay the filing fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis* (IFP), setting forth the information to establish your inability to prepay the fees and costs or give security therefore. You must also include a six (6) month history of your Inmate Trust Account. You can acquire the application to proceed IFP and appropriate Inmate Account Certificate from the law library at your prison unit.
3. 28 U.S.C. 1915, as amended by the Prison Litigation Reform Act of 1995 (PLRA), provides, "...if a prisoner brings a civil action or files and appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." Thus, the Court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the Court will apply 28 U.S.C. 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your Inmate Account, until the entire **\$350** filing fee has been paid.
4. If you intend to seek *in forma pauperis* status, then do not send your complaint without an Application to Proceed IFP, and the Certificate of Inmate Trust Account. Complete all the essential paperwork before submitting it to the Court.

CHANGE OF ADDRESS

It is your responsibility to inform the Court of any change of address and its effective date. Such notice should be marked "**NOTICE TO THE COURT OF CHANGE OF ADDRESS**" and shall not include any motions(s) for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedures.

I. PREVIOUS LAWSUITS:

- A. Have you filed any other lawsuits in the state or federal court relating to imprisonment? _____ YES X NO
- B. If your answer to "A" is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)
 1. Approximate date of filing lawsuit: NA
 2. Parties to previous lawsuit:
 Plaintiff(s): NA
 Defendant(s): NA
 3. Court (If federal, name the district; if state, name the county) NA
 4. Docket Number: NA
 5. Name of judge to whom case was assigned: NA
 6. Disposition: (Was the case dismissed, appealed, still pending?)
 NA
 7. Approximate date of disposition: NA

II. PLACE OF PRESENT CONFINEMENT: Eotelle (H.S) 264 fm 3478 Huntsville T6 77342

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted both steps of the grievance procedure in this institution? X YES NO

Attach a copy of the Step 2 grievance with the response supplied by the prison system.

IV. PARTIES TO THE SUIT:

A. Name of address of plaintiff: Robert A. Byrd 1498941 264 fm 3478
Huntsville T6 77342

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: ? Harrell Sargent Daycard Coffield unit
2661 fm 2054 Tennessee Colony T6 75884

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

Retaliated for throwing water on fellow officer, broke my arm with Riot Baton

Defendant #2: K. Ward Regional 2 Director, Reg. 2 Directors office
Address unknown all attempts to find have failed

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

I notified Ward my life was in danger in step 2, No action to protect me

Defendant #3: ~~Brandon Whittaker CPT, Coffield unit (Ret) 2661 fm~~
~~2054 Tennessee Colony T6 75884~~ Testimony address

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

~~Brandon Whittaker CPT, Coffield unit (Ret) 2661 fm~~
~~2054 Tennessee Colony T6 75884~~

Defendant #4: ~~?~~ ? Black Lieutenant Coffield unit 2661 fm 2054
Tennessee Colony T6 75884

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

He supervised 5 man team use of force failed to protect Byrd from Harrell.

Defendant #5:
NA

Briefly describe the act(s) or omission(s) of this defendant, which you claimed harmed you.

NA

NOTE: I
Been moved to
New unit, No
Officer Roster
for Coffield unit
here

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal argument or cite any cases of statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember that the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

Shinault Co. struck my hand with Bean slot tool and crushed hand in slot on May 13, 14. He tore up my legal books and stole my Quran and Prayer Rug. Since then he and his fellow "boys" Hill, "New York" and Sgt. Harrell have been threatening me for me being white and muslim. I Filed Grievances on the harassment and told K. Ward in Step 2 my life was in danger. He said he disciplined Shinault and for assault and said threats by Shinault were unfounded. But I complained of officer's threatening me. Not Shinault. Four days after Step 2 came back on 7-15-14, Harrell and his boys beat up Lt. Carroll. I threw water on Co Johnson to get Park to get Lt. Carroll medical help. Instead Harrell came and gassed me, ran a 5 man team in my cell and beat me down with a Riot Baton on my head leg, and arm; arm broke at elbow. (See Attachment A)

VI. RELIEF: State briefly exactly what you want the court to do for you. Make no legal arguments. Cite not cases or statutes.

Place case on Docket for Jury trial, allow Discovery motions
Appoint Counsel, so Plaintiff can recover monetary value for injuries

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases:

Big Byrd Robert Byrd

B. List all TDCJ-ID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you, if know to you.

819368 T.D.C.J.

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? ☐ YES ☒ NO

B. If your answer is "yes", give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (If federal, give district and division): NA

2. Case Number: NA

3. Approximate date sanctions were imposed: NA

4. Have the sanctions been lifted or otherwise satisfied? ☐ YES ☒ NO

C. Has any court ever warned or notified you that sanctions could be imposed? ____ YES NO

D. If your answer is "yes", give the following information for every lawsuit in which warning was imposed.
(If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed warning (if federal, give the district and division): NM

2. Case number: NA

3. Approximate date warning were imposed: NA

Executed on: _____
(Date)

Robert A. Byrd 1498941
(Printed Name)

Robert A. Byrd 1498941
(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachment thereto are true and correct.
2. I understand if I am released or transferred, it is my responsibility to keep the Court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand that I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions in a Court of the United States while incarcerated or detained in any facility, which lawsuits are dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger or serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire **\$350** filing fee and costs assessed by the Court, which shall be deducted in accordance with the law from the inmate account by my custodian until the filing fee is paid.

Signed this 17th day of December, 20 14.
(Day) (Month) (Year)

Robert A. Byrd 1498941
(Printed Name)

Robert A. Byrd 1498941
(Signature of Plaintiff)

WARNING: The Plaintiff is hereby advised any false or deliberately misleading information provided in response to the following questions will result in the imposition of sanctions. The sanctions the Court may impose include, but are not limbed to monetary sanctions and/or the dismissal of this action with prejudice.

Note! O.I.G. has now charged me with
 having a knife when I came out of
 cell to get away from the team, as the
 reason why Baton was used to beat me.
 This is a lie and evidence shows no weapon.
 Plus a Lieutenant was fired and a Sergeant
 Demoted. Plus the video was put on U-Tube.

(Attachment A) See Grievance #2014145364 WHERE I ASK FOR
 Help From Regional Director. 4 days later they try to kill me.

Sgt. Harrell began beating me with a Riot baton when his 5 man
 Riot suited team had me in process of subduing me. Harrell continued
 to beat me with baton even after team subdued me. I WAS NOT
 SUPPOSED to be assaulted as I'm in a secure cell in Ad. Sec.
 administration. I WAS to be Given a disciplinary case for throwing
 water on CO Johnson's leg. It served no Penological interest to GAS me
 suit up a 5 man team and run in to beat me up and then to use
 a riot Baton. I WAS stitched up where the baton struck me. Put
 in a sling and thrown back into cell minus all my property. The
 Cell WAS NOT decontaminated. I WAS NOT allowed a shower to extract
 the chemical agent from my body. Nor WAS I Given any cloths
 to wear, or towels to clean cell. Water WAS turned OFF and
 electricity. I layed on floor for 2 day's until I WAS taken
 a hospital. Where ~~the~~ my arm had to be rebuilt by Plates and
 screws at the elbow. I have 50% Range of motion Now and
 am in Physical therapy to learn how to Re-use my arm. Before
 Assault Harrell said, "its Jihad time." In reference to my muslim
 beliefs. The Assault is on 5 different video recorders. Lt. Black
 is the main supervisor and he Authorized A baton to be used. He
 Never ordered Harrell to stop beating me. The team WAS CAPABLE
 of subduing me. I'm suing each in an individual CAPACITY.
 under cruel and unusual Punishment U.S.C 8th amendment. As it
 WAS uncalled for, Malicious, and deliberate after first
 Assault by Shinault to harass and beat me for my religious
 beliefs, and Using the Grievance System, to get Shinault in
 trouble who quit after disciplinary against him.



Texas Department of Criminal Justice

STEP 1

OFFENDER GRIEVANCE FORM

Offender Name: Robert Byrd TDCJ # 1498941
 Unit: Coffield Housing Assignment: L120
 Unit where incident occurred: Coffield G228

OFFICE USE ONLY

Grievance #: 2014186081
 Date Received: 7.23.14
 Date Due: 8.1.14
 Grievance Code: 800
 Investigator ID #: ~~7204~~ I 5086
 Extension Date: _____
 Date Retd to Offender: AUG 27 2014

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Sgt Harrell and Lt. Jackson When? 7-15-14

What was their response? NONE

What action was taken? NONE

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

I am grieving an excessive use of force on 7-15-14, in which violated my 8th Amendment rights. They ran 3 teams of use of force back to back, where they used clubs and broke bones and slammed heads into steel and concrete. Starting with Howard Carroll, then me, then a 3rd inmate. Lt Michael Black allowed it all and watched from a distance. Sgt. Tony Harrell used a club and beat me in the knee and back of the head from behind and broke my arm with it. While the others on the team did not yell at Harrell to stop or do anything to stop it, or even try. ~~Jane~~ Teneane Dehart ~~is~~ holding the video camera did nothing to stop it or even yell at Harrell to stop. Keith Foust and Sterling and Shabrodrick Hill also allowed it and said nothing. After it was over, I got back from medical with a severe concussion and was put back in my cell without being watched by any staff or medical, and with no shower. I was not decontaminated, my cell was not decontaminated (ever). I was put back in my cell burning badly from the gas, and it all in my cell, and needed more emergency medical. I begged them and Lt. Jackson for medical help and they ignored me. I requested both emergency medical care and cell decontamination many times, including on camera and audio being captured by Dehart during the next inmates excessive use of force immediately after mine. I which I want that use of force audio and video of the hand held cam held for Federal Evidence in my case. as well as my own use of force footage held for evidence. I fell unconscious soon after in my cell and they left me to die when all the other prisoners told the officers I'd blacked out in my cell. They looked at me and walked off - per other prisoner witnesses.

What they did was not random against me, They went cell to cell with 3 of us beating and breaking bones and trying to kill us.

Action Requested to resolve your Complaint. *want All 3 uses of force records and audio and video held for evidence, as well as all L wing video surveillance footage, in medical video surveillance footage and hallway footage held for evidence.* JUL 23 2014

Offender Signature: _____

Robert Byrd

Date: _____

July 21 2014

Grievance Response: _____

A copy of Grievance #2014186081 has been included in Use of Force Packet #M-04067-07-14 for further review.

Signature Authority: _____

*J. Rupert*Date: *8-26-14*

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # _____
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

I-127 Back (Revised 11-2010)

OFFICE USE ONLY

Initial Submission

UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

2nd Submission

UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

3rd Submission

UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____



Texas Department of Criminal Justice

STEP 2

OFFENDER GRIEVANCE FORM

Offender Name: Robert Byrd TDCJ# 1498941
 Unit: Estelle (H.S) Housing Assignment: G-228
 Unit where incident occurred: Coffield

OFFICE USE ONLY

Grievance #: 20141860814
 UGI Recd Date: 16 SEP 2014
 HQ Recd Date: SEP 19 2014
 Date Due: 10-21
 Grievance Code: 800
 Investigator ID#: 1257
 Extension Date: _____

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...

Because there no need for further review. The incident is on film and Sgt. Harrell's actions were unwarranted as was a Major use of force for a minor infraction. My Constitutional rights were violated when after I warned Regional 2 director Ward in Grievance # 2014/45364 my life was in danger as by these very men, I told him I will kill before I get killed. It WAS NOT a small matter. We were in a war zone with officers who were unchecked by ranking officers. 4 days after grievance 2014/45364 Harrell and Shinnalts boys beat me for tossing water on Johnson's calf muscle so he could get rank down to get medical attention again for H. Carroll who they just beat up. 4 days after K. Ward was told my life was in danger, I get ~~beat~~ beat and live but am maimed for life. There is no need for further review. People should be fired and charges brought by the director of T.D.C.J Under the Texas Government Codes.

Offender Signature: _____

Robert Byrd 1498941

Date: _____

9-16-14

Grievance Response: _____

#M-04067-07-14 was documented in accordance with the *TDCJ Use of Force Plan*. All use of force reports are reviewed at the unit, regional, and administrative levels. Your concerns have been noted and any issues of staff misconduct will be addressed in accordance with PD-22 General Rules of Conduct and Disciplinary Action Guidelines for Employees. No further action warranted by this office.

Signature Authority: _____

B. PARKER

Date: _____

SEP 24 2014Returned because: **Resubmit this form when corrections are made.*

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible.*
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments.*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language.
- ☐ 6. Inappropriate.*

CGO Staff Signature: _____

OFFICE USE ONLY**Initial Submission**

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) ☐ Screened ☐ Improperly Submitted

Comments: _____

Date Returned to Offender: _____

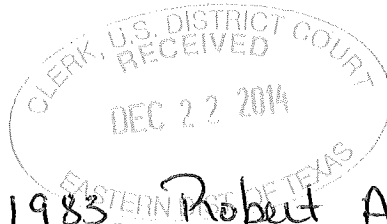
Clerk of Court

U.S. Eastern Dist. Court of Texas

211 W. Ferguson St.

Tyler TX 75702

6:14cv986
MHS/KNM



RE: § 1983 Robert A. Byrd 1498941

Dear Clerk,

Please find an Original and copy of
of my 1983 Civil Claims Form's with Step 1,
Step 2 Grievances Attached. Also find my
I.F.P Form and 6 month account Statement
herein and file to the Court and bring
it to their attention and Notify when filed.

Thank You,

Happy Holidays

Robert Byrd #1498941

264 FM 3478

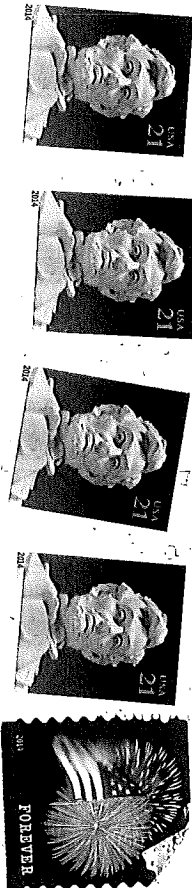
Huntsville TX 77342

Estelle (H.S)

Date: 12-17-14

Robert A. Baird 149894/
Jed Pm 3478
Huntsville TX 77342
Estelle (H-S)

Logg
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U.S. Eastern Dist. Court of TX
211 Ferguson St.
Tyler TX ~~75702~~
75702